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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/664,692

09/19/2003

Dean L. McClymonds

13.27461

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06/15/2006

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EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,692	Applicant(s) MCCLYMONDS, DEAN L.	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al. 6,609,356 in view of Ishii 5,918,691 and Keller 3,800,902.

Fackrell discloses a mowing device having:

- A frame (14, 16)
- A deck (11) attachable to the frame (14, 16) at different heights
- A cutting blade (178)
- A first pair of wheels (165, 168) attached to the right side of the frame (14)
- A second pair of wheels (165, 167) attached to the left side of the frame (16).

However, Fackrell fails to disclose:

- A first hydraulic motor mounted on the right side of the frame connected to a first remotely controlled hydraulic pump and the first pair of ground wheels
- A second hydraulic motor mounted to the left side of the frame connected to a second remotely controlled hydraulic pump, operated independently of the first hydraulic pump, and the second pair of ground wheels
- A two cycle gasoline internal combustion engine
- A clutch connecting the engine to the cutting blade.

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Ishii discloses a mowing device having a first hydraulic motor (MR) connected to a first Hydraulic pump (PR) and a right pair of wheels (59, 61 at 7R). Ishii also discloses a second hydraulic motor (ML) connected to a second pump (PL) and a left pair of wheels (59, 61 at 7L). The second hydraulic pump (PL) is controlled independently of the first hydraulic pump (PR). The mowing device further includes a two cycle gasoline engine (E) connected to the cutting blade via a clutch (40).

Keller discloses a traditional user operated lawnmower that has been converted to remote control.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the two hydraulic systems of Ishii on the mowing device of Fackrell in order to change the traveling direction of a vehicle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Keller for the speed and direction control and for the engine and clutch of the mowing device of Fackrell in order to relieve physical exertion and discomfort.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell, Ishii and Keller as applied to claim 7 above, and further in view of Cartner 4,445,312.

The device is disclosed as applied above. However, the combination fails to disclose a retractable segment on the deck and remotely controlled means for raising and lowering the retractable segment.

Cartner discloses a mower with a retractable segment (80) that can be raised and lowered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the retractable segment of Cartner on the device of Fackrell, Ishii and Keller in order to provide a way to escape obstructions.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Keller for the retractable segment control in order to relieve physical exertion and discomfort.

Response to Arguments

4. Regarding applicant's arguments, the applicant is arguing more than claimed. Specifically, the applicant argues that the right and left hydraulic motors of Ishii are not connected to the respective pairs of wheels. However, the claims only require that the motors each be connected to the pairs, wherein one wheel of the pair suffices, and do not preclude the Ishii reference. The claims do not set forth a right hydraulic motor connected to each of a pair of right wheels and the left hydraulic motor being connected to each of a left pair of wheels, as the applicant is arguing.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


for **Thomas B. Will**
Supervisory Patent Examiner
Group Art Unit 3671

AMT
June 11, 2006